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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/634,947	08/07/2000	James Pei-Man She	016660-049	2827
21839	7590	04/22/2005	EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P			LIM, KRISNA	
POST OFFICE BOX 1404			ART UNIT	PAPER NUMBER
ALEXANDRIA, VA 22313-1404			2153	

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/634,947	Applicant(s) SHE ET AL.	
	Examiner Krisna Lim	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on the amendment filed 12/29/2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12-20, 22 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9, 12-20, 22 and 25 is/are allowed.
- 6) ☒ Claim(s) 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

TL *MC*

1. Claims 1-9, 12-20, 22 and 25-28 are still pending for examination. Claims 26-27 have been withdrawn. Claims 10-11, 21, 23 and 24 were canceled.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claim 28 is still rejected under 35 U.S.C. § 103(a) as being unpatentable over Schreiber et al. (U.S. Patent No. 5,970,491). Schreiber et al. has been used in the last office actions.

4. The rejections are respectfully maintained and incorporated by reference as set forth in the last office action.

Claims 1-9, 12-20, 22 and 25 are allowed.

5. Applicant's arguments filed 12/29/04 have been fully considered but they are not deemed to be persuasive.

6. In the remarks, applicants argued in substance that:

a) Neither Schreiber patent itself nor elsewhere in the art suggest the use of Schreiber storage management system for the delivery of live data content.

b) The rejection does not provide any showing that these problems (different systems may operate with different protocols ...) are also associated with the delivery of live data content. There is no motivation to modify the system of the Schreiber patent to deliver live data, since it is particularly directed to shortcomings of email systems.

c) The Office Action has not established a prima facie case of obviousness because the Office Action does not meet the basic criteria requirement for a prima facie case (see page 2 of the applicant's remark). Furthermore, applicants argued that "the prior art reference ... must teach or suggest all the claim limitations."

7. As to paragraphs 6 a) and 6 b) above, in Fig. 1, lines 20-65, Schreiber discloses a message system having mail switch 100, a plurality of gateway 108 and a plurality of clients 110. Schreiber further discloses that the mail switch 100 comprises a plurality of message transfer agents 106 and a distributed storage facility 104. Gateway is well known in the art at the time the invention was made as a device that connects networks using different communications protocols so that information can be passed from one to the other. A gateway both transfers information and converts it to a form compatible with the protocols used by the receiving network (see Microsoft Press Computer Dictionary). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to recognize that using a gateway to transfer or to deliver live data content instead of email would have been a matter of choice or usage because a gateway is known for transferring and converting information to a form compatible with the protocols used by the receiving network.
8. As to paragraph 7 c) above, Examiner respectfully disagrees because a prima facie case of obviousness is established when the Examiner logically alleges obviousness of the differences between the claimed invention and the prior art as mentioned in the previous rejection and the paragraph 7 above. Now, the

burden is shifted to the applicants to rebut why the gateway cannot be used to transfer or to deliver live data content.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisna Lim whose telephone number is 571-272-3956. The examiner can normally be reached on Monday to Wednesday and Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess, can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KI

April 16, 2005



KRISNA LIM
PRIMARY EXAMINER